
TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

Final Rule

LSA Document #12-517(F)

DIGEST

Amends [355 IAC 4-0.5-2](#) to include users of any product regulated under [IC 15-16-5](#) in the definition of "licensed applicator for hire". Amends [355 IAC 4-0.5-4](#) to include employees of nonprofit organizations in the definition of "licensed public applicator". Amends [355 IAC 4-1-1.1](#) and [355 IAC 4-1-4](#) to make legal citation references consistent with amendments to [IC 15-16-5](#). Amends [355 IAC 4-2-1](#) through [355 IAC 4-2-3](#) and [355 IAC 4-2-5](#) to add reference to both fertilizers and pesticides regulated under [IC 15-16](#). Amends [355 IAC 4-2-8](#) to eliminate reference to an outdated registration fee that was replaced through amendments to [IC 15-16-5](#). Amends [355 IAC 4-7-2](#) to add reference to category 14 continuing certification hour requirements. Effective 30 days after filing with the Publisher.

[355 IAC 4-0.5-2](#); [355 IAC 4-0.5-4](#); [355 IAC 4-1-1.1](#); [355 IAC 4-1-4](#); [355 IAC 4-2-1](#); [355 IAC 4-2-2](#); [355 IAC 4-2-3](#); [355 IAC 4-2-5](#); [355 IAC 4-2-8](#); [355 IAC 4-7-2](#)

SECTION 1. [355 IAC 4-0.5-2](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-0.5-2](#) "Licensed applicator for hire" defined

Authority: [IC 15-16](#)

Affected: [IC 15-16](#)

Sec. 2. "Licensed applicator for hire" means any licensed certified commercial applicator who is:

- (1) employed by a licensed pesticide business; and is
- (2) directly responsible for the use or supervision of the use of any:

(A) pesticide; or

(B) product regulated under:

(i) [IC 15-16-2](#), [IC 15-16-4](#), or [IC 15-16-5](#); or

(ii) regulations adopted under [IC 15-16-2](#), [IC 15-16-4](#), or [IC 15-16-5](#);

on the property of another.

(State Chemist of the State of Indiana; [355 IAC 4-0.5-2](#); filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

SECTION 2. [355 IAC 4-0.5-4](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-0.5-4](#) "Licensed public applicator" defined

Authority: [IC 15-16-5-44](#); [IC 15-16-5-45](#)

Affected: [IC 15-16-5](#)

Sec. 4. (a) "Licensed public applicator" means a licensed certified commercial applicator who, as an employee of a state agency, municipal corporation, or other governmental agency, **or nonprofit organization**, uses or supervises the use of:

- (1) a restricted use pesticide; or
- (2) any pesticide in a potentially hazardous situation or site as determined by the Indiana pesticide review board by rule.

(b) The term does not include the following:

- (1) A doctor of veterinary medicine.
- (2) A medical doctor.
- (3) An applicator who uses only the following nonrestricted use pesticides:
 - (A) Germicides.
 - (B) Disinfectants.

- (C) Bactericides.
- (D) Sanitizers.
- (E) Water purifiers.
- (F) Swimming pool chemicals.

(State Chemist of the State of Indiana; [355 IAC 4-0.5-4](#); filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

SECTION 3. [355 IAC 4-1-1.1](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-1-1.1](#) Commercial applicators; licensing

Authority: [IC 15-16-5-44](#); [IC 15-16-5-45](#)

Affected: [IC 15-16-5-7](#)

Sec. 1.1. (a) Completing the certification requirements as a commercial applicator (~~[IC 15-3-3.6-2\(7\)](#)~~) ([IC 15-16-5-7](#)) shall be a qualifying requirement for each of the licenses defined in [355 IAC 4-0.5](#).

(b) An individual who is employed as a licensed applicator at more than one (1) business location or agency at the same time shall:

- (1) hold separate and distinct licenses for each employer; and
- (2) pay all applicable license fees.

(State Chemist of the State of Indiana; [355 IAC 4-1-1.1](#); filed Nov 21, 1984, 3:33 p.m.: 8 IR 331; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Jan 30, 2007, 9:49 a.m.: [20070228-IR-355060063FRA](#); readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

SECTION 4. [355 IAC 4-1-4](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-1-4](#) Private applicators; certification requirements

Authority: [IC 15-16-5-44](#); [IC 15-16-5-45](#)

Affected: [IC 15-16-4-51](#); [IC 15-16-5](#)

Sec. 4. The requirements for (a) Initial certification of ~~as a private applicator ([IC 15-3-3.5-1\(6\)](#))~~ **applicator ([IC 15-16-4-51](#))** shall be **require an individual to pass** the same **written closed book exams** as those described for commercial applicators in section 2.1 of this rule, except that the state chemist shall determine which commercial applicator examination will be considered appropriate for the private applicator's proposed use of pesticides.

(b) Certification and the permit for private applicators shall remain valid from the date of passing the examination and paying the permit fee through December 31 of the fourth year following the year during which the examination was passed.

(State Chemist of the State of Indiana; [355 IAC 4-1-4](#); filed Nov 21, 1984, 3:33 p.m.: 8 IR 334; filed Nov 22, 1999, 3:39 p.m.: 23 IR 780; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Jan 30, 2007, 9:49 a.m.: [20070228-IR-355060063FRA](#); readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

SECTION 5. [355 IAC 4-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-2-1](#) Definitions

Authority: [IC 15-16](#)

Affected: [IC 15-16-5-36](#)

Sec. 1. The following definitions apply throughout this rule:

(1) "Competent person" means a person who:

- (A) has the ability to read and comprehend written instructions, including the text of pesticide **and fertilizer** labels;
- (B) is **at least** sixteen (16) years of age; ~~or over~~; and
- (C) is a registered technician.

(2) "Direct supervision" means either of the following:

- (A) The physical presence of the supervising certified applicator at the work site under circumstances that permit continuous direct voice contact with the noncertified individual.
- (B) The supervising certified applicator has provided the noncertified competent person the following:
 - (i) Written instructions covering site-specific precautions to prevent injury to persons or the environment or damage to property.
 - (ii) A copy of the labels of all pesticide **and fertilizer** products to be used.
 - (iii) The means and instructions to establish direct voice communication during the use of the pesticide **or fertilizer** with the supervising certified applicator.
 - (iv) All personal protective equipment and instructions on proper use required by the labels of the pesticide **or fertilizer** products for the uses being performed.

(3) "Registered technician" means a noncertified person who, having met the requirements of section 8 of this rule, is registered by the state chemist and thereby is authorized to engage in pesticide use and related activities while working under the direct supervision of a certified applicator.

(4) "Work site" means any location at which pesticides **or fertilizers** are used. ~~as defined in IC 15-3-3.6-2(37).~~

(5) "Written instructions" means a written or printed site assessment fact sheet or similar document that shall be reviewed by the noncertified applicator prior to each pesticide **or fertilizer** application. The required elements on the site assessment fact sheet shall be industry specific and developed by the state chemist in consultation with the appropriate certified applicator industry.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 442; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1191; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

SECTION 6. [355 IAC 4-2-2](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-2-2](#) Pesticide or fertilizer use by noncertified persons

Authority: [IC 15-16](#)

Affected: [IC 15-16-5-49](#)

Sec. 2. Pesticides **or fertilizers** may be used by a noncertified person working under the direct supervision of a certified applicator. All persons conducting use of pesticides **or fertilizers** for hire by aerial application shall be certified.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 6; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

SECTION 7. [355 IAC 4-2-3](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-2-3](#) On-site supervision of use

Authority: [IC 15-16](#)

Affected: [IC 15-16-5](#)

Sec. 3. The supervising certified applicator shall be physically present as defined in section 1(2)(A) of this rule if **the**:

- (1) ~~the~~ label of the pesticide being used so stipulates; **or**
- (2) ~~the~~ noncertified individual:

(A) has had no prior experience with either the pesticide, **the fertilizer**, or the application methodology in use; or

~~(3) the noncertified individual~~ (B) is not competent as defined in section 1(1) of this rule.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA)

SECTION 8. [355 IAC 4-2-5](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-2-5](#) Applicability of supervision requirements

Authority: [IC 15-16](#)

Affected: [IC 15-16-5](#)

Sec. 5. The requirements for direct supervision of noncertified individuals shall apply to the **use of the** following:

~~(1) Use of~~ All pesticides **or fertilizers** by any person required by [IC 15-3-3.6](#) [IC 15-16-5](#) **or the rules under that chapter** to be licensed as one (1) of the following:

(A) A pesticide business.

(B) A for hire applicator.

(C) A not for hire applicator.

(D) A public applicator.

~~(2) Use of~~ Restricted use pesticides.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 5; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA)

SECTION 9. [355 IAC 4-2-8](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-2-8](#) Technician registration requirements

Authority: [IC 15-16-5-44](#)

Affected: [IC 15-16-5-60](#)

Sec. 8. (a) To become a registered technician, an individual must do the following:

(1) Pass the commercial applicator core examination described in [355 IAC 4-1-2.1](#).

(2) Submit an application on a form provided by the state chemist.

(3) Submit the ~~thirty dollar (\$30)~~ technician registration fee.

(b) Registration shall remain in force from the date of passing the examination through December 31 of the fourth year following the year during which the examination was passed unless revoked or suspended.

(c) The registration period may be extended indefinitely for an additional five (5) years if the registered technician accumulates at least eight (8) continuing registration credits by attending at least two (2) state chemist approved continuing registration programs while the registration is in force.

(d) Annual registration credentials shall expire on December 31 unless renewed by a payment of a ~~thirty dollar (\$30)~~ **the** renewal fee by that date. Renewal after December 31 shall include a late fee of ~~thirty dollars (\$30)~~ as established by [IC 15-3-3.6-12.1](#) [IC 15-16-5-60](#) in addition to the ~~thirty dollar (\$30)~~ renewal fee.

(e) The registration credential shall be in the possession of the registered technician at all times the technician is at a work site as defined in section 1(4) of this rule.

(State Chemist of the State of Indiana; [355 IAC 4-2-8](#); filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 6; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

SECTION 10. [355 IAC 4-7-2](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-7-2](#) Commercial applicators; certification renewal standards

Authority: [IC 15-16-2](#); [IC 15-16-5](#)

Affected: [IC 15-16-2](#); [IC 15-16-5](#)

Sec. 2. (a) Certification renewal of commercial applicators shall be accomplished by the applicator completing one (1) of the following:

- (1) The written examination procedures for initial certification established in [355 IAC 4-1-2.1](#).
- (2) Accumulating the minimum number of CCHs listed in the table in subsection (b) before the expiration of the applicator's certification period for that category.

(b) The minimum number of CCHs required for renewal of each category is as follows:

Category 1	20 CCHs
Category 2	10 CCHs
Category 3a	15 CCHs
Category 3b	20 CCHs
Category 4	10 CCHs
Category 5	15 CCHs
Category 6	15 CCHs
Category 7a	20 CCHs
Category 7b	15 CCHs
Category 7d	20 CCHs
Category 8	15 CCHs
Category 11	20 CCHs
Category 12	10 CCHs
Category 13	10 CCHs
Category 14	3 CCHs

(c) A commercial applicator can accumulate CCHs only in the categories in which the applicator is certified at the time of participating in the training.

(d) A commercial applicator can accumulate a maximum of one-half (1/2) of the number of CCHs required in subsection (b) at any one (1) training program.

(e) CCHs accumulated by a commercial applicator in excess of the number of CCHs required in subsection (b) shall not be carried forward to the next certification period.

(f) Renewed certification shall remain in force through December 31 of the fifth year following renewal unless revoked or suspended prior to that date.

(State Chemist of the State of Indiana; [355 IAC 4-7-2](#); filed May 12, 2009, 11:20 a.m.: [20090610-IR-355090063FRA](#); filed Nov 28, 2012, 2:42 p.m.: [20121226-IR-355120517FRA](#))

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